IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 409 of 2003

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NATVRBHAI NARUBHAI RATHOD

Versus

EXECUTIVE ENGINEER

Appearance:

MR JANAKRAY K RAVAL for Petitioner No. 1

MR DIGANT JOSHI for Respondent No. 1-2

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 17/03/2003

ORAL JUDGEMENT

1. Despite the notice issued on 28th January 2003, returnable on 14th February 2003, no affidavit in reply is filed. Mr. Digant Joshi, learned AGP appearing in the matter submitted that respondents do not have any explanation for the observations made by the learned

Judge to the effect that, "the workman is not able to prove that he was senior as daily wager and that the establishment has violated his seniority" despite the deposition of the workman to that effect. Hence Rule.

2. Head the learned counsels. The contents of the deposition of the present petitioner are not taken into consideration by the learned Judge in the impugned award. The observations of the learned Judge do not find any support from the evidence on the record. In this view of the matter the present petition is required to be allowed. Accordingly the present petition is allowed. The matter is remanded to the Labour Court for deciding afresh after granting opportunity of hearing to both the parties. The Labour Court shall hear the matter on priority basis and decide the same within a period of six months from the date of receipt of writ of this order. Rule is made absolute with no order as to costs.

[RAVI R. TRIPATHI J.]
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